THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 4681 OF 2007

Dated 23rd April 2007

Between:

M.Narasimha Rao

…Petitioner

and

The Govt. of A.P. rep.by the Secretary,
Irrigation & Command Area Development (PWD)
Department, Hyderabad & others.

…Respondents

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WRIT PETITION No.4681 OF 2007

O R D E R:

The Government of Andhra Pradesh awarded the contract of Rehabilitation and Modernisation of Distributory system from KM.0 to 7.600, in a package called "L1-16A" in favour of M/s.Gayathri Projects Limited. The petitioner is a Class-I contractor. After obtaining necessary permission from the Government, M/s.Gayathri Projects Limited, the principal contractor, had awarded a sub-contract in favour of the petitioner, for certain items of works in the package. The petitioner claims to have successfully completed the works entrusted to him. His grievance is that the bills are not being paid, and he seeks a direction to the respondents.

On behalf of respondents, a counter affidavit is filed by the 5th respondent. The fact that certain items of work were entrusted to the petitioner is admitted. It is also stated that out of 23 bills submitted by

the petitioner, 21 bills, covering a sum of Rs.2,41,38,488/-, were cleared by the 5th respondent. The reason for not releasing the other amounts, are not clearly stated.

Heard the learned counsel for the petitioner and learned Government Pleader for Roads & Buildings.

It is not in dispute that the petitioner was entrusted with certain items of work, by the principal contractor, after obtaining the permission of the concerned authority. The record discloses that for the works entrusted to him, the petitioner submitted bills, and majority of them were cleared. Though the counter affidavit is silent, as to the reason for withholding certain bills, during the course of arguments, it is stated that certain disputes are pending determination, between the Department and the principal contractor.

Had the entrustment of the work to the petitioner, by the principal contractor, been without knowledge of the respondents, totally a different situation would have emerged. Not only did the department accord permission for award of sub-contract to the petitioner, but also the bills, independently submitted by the petitioner, were entertained and cleared. Assuming that there are disputes between the principal contractor and the Department, the bills payable to the petitioner cannot be withheld. The Department can certainly enforce its rights and claims, against the principal contractor. Once it emerges that the petitioner had successfully executed the works entrusted to him, he is entitled to be paid the corresponding amount.

Hence, the writ petition is allowed, and the respondents are directed to release the bills payable to the petitioner, for the works executed by him, within a period of four weeks, from the date of receipt of a copy of this order, duly verifying the measurements, etc. There shall be no order as to costs.

23rd April 2007

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